

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MASSACHUSETTS  
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5 UNITED STATES ) CR. NO. 04-10048-NG  
6 VS. ) COURTROOM NO. 2  
7 RICARDO ROSARIO ) 1 COURTHOUSE WAY  
8 BOSTON, MA 02210  
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11 FINDINGS OF FACT  
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13 MAY 11, 2006

14 11:42 A.M.  
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18 BEFORE THE HONORABLE NANCY GERTNER  
19 UNITED STATES DISTRICT COURT JUDGE  
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24 VALERIE A. O'HARA  
25 OFFICIAL COURT REPORTER

1       A P P E A R A N C E S:

2               United States Attorney's Office, by JOHN A. WORTMANN,  
3       ASSISTANT UNITED STATES ATTORNEY, One Courthouse Way,  
4       Suite 9200, Boston, Massachusetts 02210, for the United  
5       States;

6               LOIS M. LEWIS, ATTORNEY, 74 Fuller Terrace,  
7       West Newton, Massachusetts 02465 for the Defendant.  
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1                                    FINDINGS OF FACT

2                    THE COURT:    So, would you please stand,  
3                    Mr. Rosario.   I'm going to sentence you to 60 months on each  
4                    count to be served concurrently.   I'm going to make a  
5                    recommendation of the 500-hour residential drug abuse  
6                    program.   I don't believe that Mr. Rosario's criminal record  
7                    will enable him to go to Fort Devens, and so your  
8                    recommendation is what?   What was the institution that you  
9                    found?

10                   MR. WORTMANN:   Fairton, New Jersey.

11                   THE COURT:    Fairton, New Jersey, okay.   I also  
12                   recommend that Mr. Rosario participate in anger management  
13                   counseling if available at the designated facility.   Upon  
14                   his release, he should be placed upon supervised release for  
15                   five years, each count to run concurrently.   Within 72 hours  
16                   of your release from custody, which you're talking about,  
17                   what you've done, what is it, two years, three years?

18                   MS. LEWIS:    He's done 27 months.

19                   THE COURT:    27 months.

20                   MS. LEWIS:    Just about.   The 24th of this month  
21                   will be 27 months.

22                   THE COURT:    When you're released from wherever  
23                   you're designated, you go to the probation district in the  
24                   area that you've been released to.   While you're on  
25                   supervised release, you're not to commit another federal,

1 state or local crime. I'm supposed to say that, but, of  
2 course, in one sense, it's a silly thing to say. While  
3 you're on your release, you shouldn't commit another crime,  
4 but you shouldn't commit another crime in your life.

5 As I said, you commit another crime in your life,  
6 you're in jail for the rest of your life, or at least some  
7 version of that. You're very lucky you came before me. She  
8 told you that. You wind up before another judge, you won't  
9 be so lucky. I'm not so sure I wanted to have that on the  
10 record, but, in any event, that's true. While you're on  
11 supervised release, you should refrain from the unlawful use  
12 of a controlled substance.

13 You got to deal with this habit because, you see,  
14 my findings, I didn't have to talk about who flushed what  
15 drugs into the toilet, all I had to do was the fact of your  
16 habit, and your habit was sufficiently high that you got  
17 over the mandatory minimum pretty easily, so you have to  
18 deal with this habit, you have to deal with this habit,  
19 otherwise nothing else will happen in your life. You're to  
20 refrain from any use of a controlled substance, that means a  
21 drug test within 15 days of your release from imprisonment,  
22 two periodic drug tests thereafter, not to exceed 104 per  
23 year.

24 You are to comply with the standard conditions of  
25 probation, of supervised release, rather, as well as the

1 special conditions here, prohibited from possessing a  
2 firearm or other dangerous weapon. Again, you're to  
3 participate in substance abuse counseling, and you may have  
4 to pay, depending upon the availability, depending on your  
5 availability to pay, and, again, while on supervised  
6 release, you're to participate in anger management. There's  
7 a special assessment of \$400 which shall be due immediately.  
8 You have a right to appeal. Your lawyer will let you know  
9 what that consists of, and I want to get progress reports  
10 from you in prison. You write to me, I'll write to you.  
11 They won't be interesting letters, you know, they'll be  
12 silly letters, but you write to me, and I'll write back.

13 MS. LEWIS: That's kind of unusual, your Honor.

14 THE COURT: Yes, yes. As I said, this is not  
15 literary works, but you can figure some way to get out of  
16 this. That's the only way you're going to save your life.  
17 You have a right to appeal, and I think at this point why  
18 don't we take a break.

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